



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 18 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 70091680000076487078
RETURN RECEIPT REQUESTED

Mr. Joseph Mazzucco
President
Harbor Packaging
1090 South Crystal Avenue
Benton Harbor, Michigan 49022

Re: Notice of Violation
April 25, 2014 RCRA Compliance Evaluation Inspection
Harbor Packaging
EPA I.D. No.: MI0000373027

Dear Mr. Mazzucco:

On April 25, 2014, a representative of the U.S. Environmental Protection Agency inspected the Harbor Packaging facility located in Benton Harbor, Michigan. The purpose of the inspection was to evaluate Harbor Packaging's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. §§ 6901 - 6992k; specifically, those regulations related to the generation, treatment and storage of hazardous waste. Please find enclosed a copy of the inspection report for your reference.

Harbor Packaging operated as a "large quantity generator" during at least 2013 and 2014. A large quantity generator may accumulate waste on site for 90 days or less without having a hazardous waste storage operating license, provided that it complies with all applicable conditions set forth in Michigan Administrative Code (MAC) at Rule 299.9306(1)-(2) and the United States Code of Federal Regulations (C.F.R.) at 40 C.F.R. § 262.34(a) and (c). Based on information provided by Harbor Packaging personnel, EPA's review of records, personal observations made by the inspector at the time of the investigation, and other information, EPA has determined that: 1) Harbor Packaging was not in compliance with various conditions required by MAC Rule 299.9306(1)-(2) and 40 C.F.R.

§ 262.34(a) and (c); 2) Harbor Packaging stored hazardous waste for more than 90 days without a hazardous waste storage operating license; and 3) Harbor Packaging violated other RCRA requirements applicable to the Facility, as follows:

Conditions Required by MAC Rule 299.9306(1)-(2)
and 40 C.F.R. § 262.34(a) and (c)

1. 40 C.F.R. § 262.34(a)(4) and MAC R. 299.9306(1)(d) require that generators comply with, among other things, the requirements for owners or operators in 40 C.F.R. §§ 265.30 - 265.56. 40 C.F.R. § 265.31 requires that a large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. [This is also a requirement of owners and operator of hazardous waste storage facilities under 40 C.F.R. § 264.31 and 299.9606(1)].

At the time of the inspection, EPA's inspector observed a release of spent ink/MEK hazardous waste onto the floor of the material storage area of the facility from one of the waste drums, which could possibly cause a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water, which could threaten human health or the environment. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

2. 40 C.F.R. § 262.34(a)(4) and MAC R. 299.9306(1)(d) require that generators comply with the requirements for owners or operators in 40 C.F.R. §§ 265.30 - 265.56. 40 C.F.R. § 265.51 requires a hazardous waste generator to maintain a contingency plan for the facility. [This is also a requirement of owners and operators of hazardous waste storage facilities that use containers to store hazardous waste, under MAC R. 299.9607 and 40 C.F.R. § 264.51].

At the time of the inspection, Harbor Packaging failed to maintain a contingency plan for the Facility. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

3. 40 C.F.R. § 262.34(a)(4) and MAC R. 299.9306(1)(d) require that generators comply with, among other things, the requirements in 40 C.F.R. § 265.16. 40 C.F.R. § 265.16(c) requires that a large quantity generator provide its employees with hazardous waste responsibilities with annual refresher training. [This is also a requirement of owners and operators of hazardous waste storage facilities that use containers to store hazardous waste, under MAC R. 299.9605(1) and 40 C.F.R. § 264.16(c)].

At the time of the inspection, Harbor Packaging failed to provide its employees at the facility with annual hazardous waste training during years 2012 and 2013. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

4. 40 C.F.R. § 262.34(a)(4) and MAC R. 299.9306(1)(d) require that generators comply with, among other things, the requirements for owners or operators in 40 C.F.R. § 265.16. 40 C.F.R. § 265.16(d) requires that a large quantity generator maintain the following records for personnel with hazardous waste responsibilities: job title for each position, name of each employee filling each position, written job description, description of type and amount of both introductory and continuing training, and records of initial and annual training. [This is also a requirement of owners and operators of hazardous waste storage facilities that use containers to store hazardous waste under MAC R. 299.9605(1) and 40 C.F.R. § 264.16(d)].

At the time of the inspection, Harbor Packaging failed to maintain the following records for personnel with hazardous waste responsibilities: job title for each position, name of each employee filling each position, written job description, description of type and amount of both introductory and continuing training, and records of initial and annual training. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

5. 40 C.F.R. § 262.34(a)(4) and MAC R. 299.9306(1)(d) require that generators comply with, among other things, the requirements for owners or operators in 40 C.F.R. Part 268. 40 C.F.R. § 268.7(a)(8) requires that a generator maintain land disposal restriction records, notices, and certifications for three years from the date waste were offered for off-site disposal. [This is also a requirement of owners and operators of hazardous waste storage facilities that use containers to store hazardous waste under MAC R. 299.9627(1) and 40 C.F.R. § 264.73(b)(16)].

At the time of the inspection, Harbor Packaging failed to maintain land disposal restriction documents for its waste ink (D001, D035) and waste adhesive (D001) waste streams; which are waste streams offered for off-site shipment at the facility. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

6. MAC R. 299.9306(1)(a)(i) requires that generators comply with, among other things, the requirements for owners or operators in 40 C.F.R. § 264.175. EPA can enforce the provisions of MAC R. 299.9306(1)(a)(i) as part of Michigan's federally authorized state plan under RCRA. 40 C.F.R. § 264.175 requires that container storage areas must have secondary containment system. [This is also a requirement of owners and operators of hazardous waste storage facilities that use containers to store hazardous waste under MAC R. 299.9614(1) and 40 C.F.R. § 264.175].

At the time of the inspection, Harbor Packaging failed to provide a secondary containment system for twenty 55-gallon drums of spent ink/(Methyl Ethyl Ketone (MEK) hazardous waste stored on wooden pallets in the raw material storage area at the facility. Harbor Packaging therefore failed to comply with this condition for a

storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

7. 40 C.F.R. § 262.34(a)(1)(i) and MAC R. 299.9306(1)(a)(i) require that generators comply with, among other things, the requirements for owners or operators in Subpart I of 40 C.F.R. Part 265. 40 C.F.R. § 265.174 requires that a large quantity generator conduct and record weekly inspections of the container storage areas in an inspection log. [This is also a requirement of owners and operators of hazardous waste storage facilities under R. 299.9614(1) and 40 C.F.R. § 264.174].

At the time of the inspection, Harbor Packaging did not have any weekly inspection records available for its container storage area at the facility, evidencing that it failed to conduct and record weekly inspections of its hazardous waste storage area. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

8. MAC R. 299.9306(1)(b); 40 C.F.R. § 262.34(a)(2) require that a large quantity generator must label each container with the accumulation start date.

At the time of the inspection, Harbor Packaging failed to mark accumulation start dates on: (1) twenty 55-gallon drums storing hazardous waste ink/MEK solvent waste in the raw material storage area; (2) a 55-gallon satellite container labeled "Coater Waste" accumulating excess hazardous waste coater/laminator cleaning solvent (ethyl acetate) near the laminator unit. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

9. MAC R. 299.9306(2); 40 C.F.R. § 262.34(c)(1)(ii) require a hazardous waste generator to mark its satellite containers with the words "Hazardous Waste," or a waste number or chemical name identifying the contents of the containers.

At the time of the inspection, Harbor Packaging, failed to label the following containers at the Facility with the words "Hazardous Waste," or a waste number or chemical name identifying the contents of the containers: (1) two 5-gallon satellite containers accumulating hazardous waste press cleaning solvent (mixture of n-propyl alcohol, acetate, and inks) near the ink press; (2) one 55-gallon satellite container accumulating hazardous waste press cleaning solvent near the ink press; and (3) two 55-gallon satellite containers accumulating hazardous waste coater/laminator cleaning solvent (ethyl acetate) near the laminator unit. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

10. MAC R. 299.9306(2); 40 C.F.R. §§ 262.34(c)(1)(i) provide that a hazardous waste generator may accumulate hazardous waste on-site in satellite containers and avoid the need for a hazardous waste storage operating license, provided that the generator keeps the containers closed when hazardous wastes are not being added to or removed from the containers. [This is also a requirement of owners and operators of hazardous waste storage facilities, under MAC R. 299.9614(1) and 40 C.F.R. § 264.173(a)].

At the time of the inspection, two 5-gallon satellite containers accumulating hazardous waste press cleaning solvent (mixture of n-propyl alcohol, acetate, and inks) near the ink press at the facility were open even though waste was not being added to or removed from the containers. Harbor Packaging therefore failed to comply with this condition for a storage permit exemption in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

Unlicensed On-Site Hazardous Waste Storage for Over 90 days

11. Pursuant to MAC R. 299.9306(1) and 40 C.F.R. § 262.34(a), a large quantity generator may accumulate waste for 90 days or less without obtaining a hazardous waste storage permit or interim status, provided that the generator complies with all applicable conditions set forth in MAC R. 299.9306(1)(a)-(d) and (2) and 40 C.F.R. § 262.34(a)(1)-(4) and (c).

At the time of the inspection, Harbor Packaging's hazardous waste storage area held twenty 55-gallon containers of spent ink/MEK (D001, D035) waste which were placed into storage on or before January 24, 2014.

Harbor Packaging thus stored hazardous waste for longer than 90-days. Harbor Packaging, therefore, failed to meet the requirements necessary to lawfully store waste without having to obtain a storage permit or interim status in violation of the storage facility permit requirements of 40 C.F.R. § 270.1(c) and MAC R. 299.9502(1).

Other Applicable Requirements

12. MAC R. 299.9308(1) and 40 C.F.R. § 262.41(a) require generators who ship any hazardous waste off-site to a treatment, storage, or disposal facility to prepare and submit to the Michigan Department of Environmental Quality (MDEQ) by March 1 of each even numbered year a copy of a Biennial Report covering the company's hazardous waste activities from the previous year.

At the time of the inspection, Harbor Packaging had not prepared and submitted to the MDEQ a copy of the 2013 Biennial Report for the Facility. Harbor Packaging therefore violated the generator Biennial Reporting requirement of MAC R. 299.9308(1); 40 C.F.R. § 262.41(a).

13. MAC R. 299.9307(3) and 40 C.F.R. § 262.40(a) require that a large quantity generator must keep a copy of the hazardous waste manifest signed by the designated disposal facility for three years from the date wastes were offered to the initial transporter or until it receives a signed copy from the designated facility which received the waste.

At the time of the inspection, Harbor Packaging did not have records of hazardous waste manifests signed by the disposal facility for shipments of hazardous wastes from the Facility on 05/24/2012 (manifest # 009267713JJK) and 07/20/2012 (manifest # 009268262JJK). Harbor Packaging therefore violated the generator record keeping requirement of MAC R. 299.9307(3) and 40 C.F.R. § 262.40(a).

14. MAC R. 299.9307(1) and 40 C.F.R. § 262.40(c) require a large quantity generator to keep waste determination records of waste streams offered for off-site disposal for three years from the date the wastes were shipped off-site.

At the time of the inspection, Harbor Packaging failed to maintain waste determination records for its toluene/xylene and waste adhesive waste streams; which are waste streams at the facility offered for off-site shipment. Harbor Packaging therefore violated the generator waste determination record keeping requirement of MAC R. 299.9307(1) and 40 C.F.R. § 262.40(c).

15. MAC R. 299.9810(3); 40 C.F.R. § 279.22(c)(1) require that a used oil generator must label containers used for the storage of used oil with the words "Used Oil."

At the time of the inspection Harbor Packaging had not labeled a 55-gallon drum accumulating used oil in the Facility's maintenance area with the words "Used Oil." Harbor Packaging therefore violated the used oil generator container labeling requirement of MAC R. 299.9810(3) and 40 C.F.R. § 279.22(c)(1).

16. MAC R. 299.9228(4)(c)(iv) and 40 C.F.R. § 273.14(e) require a small quantity handler of universal waste to label each lamp or a container or package in which such lamps are contained with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

At the time of the inspection, Harbor Packaging had not labeled the used fluorescent lamps it accumulated in the maintenance department at the Facility with one of the required phrases. Harbor Packaging therefore violated the small quantity handler universal waste labeling requirement of MAC R. 299.9228(4)(c)(iv) and 40 C.F.R. § 273.14(e).

17. MAC R. 299.9228(4)(c)(ii) and 40 C.F.R. § 273.13(d)(1) require a small quantity handler of universal waste to contain used fluorescent lamps in containers or packages that: (1) are structurally sound, adequate to prevent breakage, compatible with the contents of the lamps, and (2) are closed.

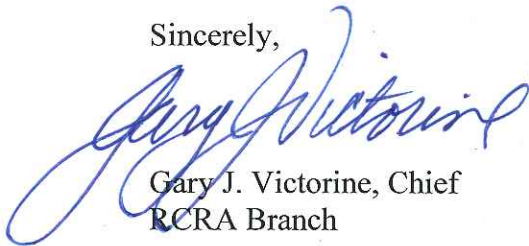
At the time of the inspection, Harbor Packaging did not store the used fluorescent lamps in the maintenance department at the Facility in containers that were closed. Harbor Packaging therefore violated the small quantity handler universal waste used fluorescent lamp management requirement of MAC R. 299.9228(4)(c)(ii) and 40 C.F.R. § 273.13(d)(1).

At this time, EPA is not requiring that Harbor Packaging apply for either a Michigan operating license or an EPA storage operating license, provided that it immediately establishes compliance with the conditions outlined above for an exemption. Under RCRA Section 3008(a), 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation and requiring compliance immediately or within a specified time period.

Although this letter is not such an order, you are hereby requested to submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, to establish compliance with the above conditions and requirements which Harbor Packaging has taken since the inspection.

You should submit your response to Derrick Samaranski, U.S. EPA, Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois 60604. If you have any questions regarding this letter, please contact Mr. Samaranski at (312) 886-7812.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Lonnie Lee (leel@michigan.gov)
John Craig (craigj@michigan.gov)
Fred Sellers (sellersf@michigan.gov)
Feighner, Bryce (DEQ) <FEIGHNERB@michigan.gov>